

REMARKS/COMMENTS

I. Introduction

This amendment and response is filed in reply to the Advisory Action dated January 9, 2009. The Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b) was granted on December 10, 2008. As stated in Applicant's introduction, this submission is filed concurrently with a Request for Continued Examination pursuant to 37 C.F.R. 1.114.

II. Amendments to the Claims

Applicant previously amended claim 33 to properly recite the limitation "wherein the alpha FSH and beta FSH subunits do not comprise intervening polypeptide sequences". Applicant has also added new claim 38 which recites the following:

Claim 38. A polypeptide comprising the amino acid sequence set forth in SEQ ID NO: 27, wherein said amino acid sequence is encoded by a single fusion polynucleotide sequence encoding a α chain having its 3' end directly fused to the 5' end of the β chain.

The Examiner has asked Applicant to specifically point to support for the amendment to claim 33 in his Advisory Action. As to both claims 33 and 38, support for these claims can be found on page 4 of the amendment previously referred to by Applicant, and throughout the specification.

More specifically, the specification discloses that the polypeptide of the claims are directed to a chimeric follicle stimulating hormone (FSH) polypeptide having FSH activity but not comprising two separate polypeptide chains (i.e. α -chain and β -chain in the native molecule). The polypeptide chain is encoded by a single fusion polynucleotide segment encoding the α -chain having its 3' end directly fused to the 5' end of the β -chain. See Specification, page 4, lines 3-16, page 20, lines 1-6. See also Example 3, page 32 at subsection C and Example 5. Applicant's claims are clearly supported by Applicant's disclosure.

III. Formal Matters and Conclusion

Applicant submits that the claims presently pending in the application are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time. Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Applicant requests the entry of this Request for Continued Examination (RCE) at a fee of \$405.00 ("small entity" status), the said fee submitted herewith. Applicant believes that this submission is timely filed and no extension fees are due at this time. The Commissioner is authorized to charge this and any additional fees deemed necessary ("small entity" status) to Deposit Account No. 50-4364, from which the undersigned is authorized to draw.

Docket No.: 357229.00002
Application No.: 10/561,743

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Respectfully Submitted,

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